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12 Attorneys for
13 GOOGLE LLC

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 **SAN FRANCISCO**

17 ANIBAL RODRIGUEZ, *et al.* individually and
18 on behalf of all other similarly situated,

19 Plaintiffs,

20 vs

21 GOOGLE LLC, *et al.*

22 Defendant.

23 Case No. 3:20-CV-04688 RS

24 **DECLARATION OF EDUARDO E.**
25 **SANTACANA IN SUPPORT OF**
26 **PLAINTIFFS' ADMINISTRATIVE**
27 **MOTION TO SEAL RE: PLAINTIFFS'**
28 **REPLY IN SUPPORT OF MOTION FOR**
29 **RELIEF FROM CASE MANAGEMENT**
30 **SCHEDULE**

31 [Declaration of Steve Ganem in Support of
32 Administrative Motion to Seal filed concurrently
33 herewith]

34 Judge: Hon. Alex G. Tse
35 Courtroom: A – 15th Floor
36 Trial Date: Not Yet Set

1 I, EDUARDO E. SANTACANA, declare:

2 1. I am an attorney licensed to practice law in the State of California and am a partner
 3 with the law firm of Willkie Farr & Gallagher LLP, located at One Front Street, San Francisco,
 4 California 94111, counsel for Defendant Google LLC (“Google”) in the above-captioned action.
 5 Unless otherwise stated, the facts I set forth in this declaration are based on my personal
 6 knowledge or knowledge I obtained through my review of corporate records or other
 7 investigation. If called to testify as a witness, I could and would testify competently to such facts
 8 under oath.

9 2. I submit this declaration in support of the Administrative Motion to Consider
 10 Whether Another Party’s Material Should be Sealed (“Motion to Seal”) filed by Plaintiffs. ECF
 11 No. 179. I am making this declaration pursuant to Civil L.R. 79-5(f) as an attorney for the
 12 “Designating Party,” as that term is used in that rule. Per the instructions provided on the
 13 Northern District of California’s website, this declaration is drafted so that it does not contain
 14 confidential information and does not need to be filed under seal. *See*
 15 <http://www.cand.uscourts.gov/ecf/underseal>.

16 3. Steve Ganem, a Google Group Product Manager with supervisory authority
 17 concerning Google Analytics for Firebase, has also reviewed the information Google seeks to
 18 keep under seal and his declaration is submitted in support of the Motion to Seal, on behalf of the
 19 Designating Party within the meaning of Civil L.R. 79-5. ***See Declaration of Steve Ganem in***
 20 ***Support of Plaintiffs’ Motion to Seal filed concurrently herewith.***

21 4. On November 19, 2021, Plaintiffs filed their Motion to Seal, with certain
 22 information conditionally under seal, including (1) portions of Plaintiffs’ Reply in Support of
 23 Motion for Relief from Case Management Schedule (“Plaintiffs’ Reply”); and (2) Exhibit D. I
 24 have reviewed the documents Plaintiffs seek to file under seal pursuant to Civil Local Rule 79-5,
 25 unredacted copies of which have been filed at ECF Nos. 179-2 and 179-4, as well as the Civil
 26 Local Rules of this Court governing such motions.

1 5. Google only seeks to seal Exhibit D. Google does not seek to seal anything
 2 contained within Plaintiffs' Reply. Google has thus pared down Plaintiffs' proposed material to
 3 be filed under seal. The contents of Exhibit D will not clarify the public's understanding of the
 4 discovery dispute at issue before the Court. And]because the Motion to Seal was filed in
 5 connection with a non-dispositive motion concerning a discovery dispute, "the usual presumption
 6 of the public's right of access is rebutted." *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172,
 7 1179 (9th Cir. 2006). Accordingly, the lower "good cause" standard applies to the material
 8 Google seeks to seal. *Id.* at 1179–80.

9 6. Based on my review of the unredacted filings, there is good cause to protect the
 10 information Google seeks to seal.

11 7. **Exhibit D** discloses confidential and proprietary information relating to Google's
 12 technical design for its products and settings. The information also reveals Google's internal
 13 strategy, product design, and its settings' abilities, and falls within the protected scope of the
 14 Protective Order entered in this action. *See* ECF No. 70. Public disclosure of such confidential
 15 information could detrimentally affect Google's competitive standing as competitors may alter
 16 their products or system designs and practices relating to competing products.

17 8. Courts have repeatedly found it appropriate to seal documents that contain "business
 18 information that might harm a litigant's competitive standing, *Nixon v. Warner Commc'nns, Inc.*,
 19 435 U.S. 589, 589-99 (1978), or any other "commercially sensitive information," *Palantir Techs.
 20 Inc. v. Abramowitz*, No. 19-CV-06879-BLF, 2021 WL 1925459, at *2 (N.D. Cal. Mar. 5, 2021).
 21 Public disclosure of the information Google seeks to keep under seal would harm Google's
 22 competitive standing it has earned through years of innovation and careful deliberation, by
 23 revealing sensitive aspects of Google's proprietary products, systems, strategies, and designs to
 24 Google's competitors. That alone is a proper basis to seal such information. *See, e.g., Free Range
 25 Content, Inc. v. Google Inc.*, No. 14-cv-02329-BLF, ECF No. 192, at 6–8 (N.D. Cal. May 3, 2017)
 26 (granting Google's motion to seal certain sensitive business information).

9. Google has narrowly tailored its request to seal only extraneous, confidential, proprietary material that is not necessary to aid the public's understanding of the discovery dispute at issue. Because Google's request to seal is narrowly tailored and is limited to portions that reveal confidential information that is not generally known to the public or Google's competitors, Google respectfully requests that the Court order Exhibit D to be filed under seal.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed November 29, 2021, at San Francisco, California.

/s/ *Eduardo E. Santacana*
EDUARDO E. SANTACANA